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EDWIN D. SCHINDLER FIVE HIRSCH AVENUE P.O. BOX 966 CORAM, NY 11727-0966				
EXAMINER				
LONG, DONNELL ALAN				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,705

Applicant(s)

WEIST, MARIO

Examiner

DONNELL LONG

Art Unit

3754

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 13-19 and 21-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 13-19 and 21-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Amendment filed July 13, 2009 has been acknowledged. Newly presented claims 21-30 have been entered. Claims 11, 13-19, and 21-30 remain pending in the application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 11, 16, 18, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Coory (WO 01/36289).

Regarding claim 11, Coory discloses a closure (403) comprising:

an end connector (405, 406);

a threaded cap (406);

a pierce-cutter (404) forming a pierce point (321), a mouth, and a sleeve surrounding the end connector (FIGS. 11 and 12); and

a plurality of guiding devices (450, 451) between the outer side of the end connector and an inner side of the sleeve engaging one another to cause a helical rotation of the mouth (pg. 12, lines 28-30).

Regarding claim 16, the closure further comprises a projection (marked up FIG. 12) projecting inwardly at an upper end of the connector and a continuous running step

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(125) on a lower region on an outer side of the pierce-cutter, sealing the mouth (pg. 10, lines 13-18).

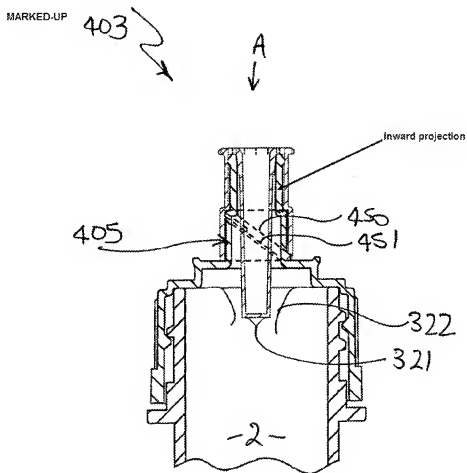


FIG. 12

Regarding claim 18, the pierce-cutter includes an outwardly projecting step (marked up FIG. 11), the end connector includes an inwardly projecting projection and the mouth includes an outer rim being round in cross-section and projecting radially

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beyond the upper portion of the sleeve, so that when said mouth is pulled upwardly, the outwardly projecting step on said pierce-cutter encounters a stop (108) at the inwardly projecting projection on the end connector with the pierce point of the pierce-cutter being positioned above the bottom of the end connector.

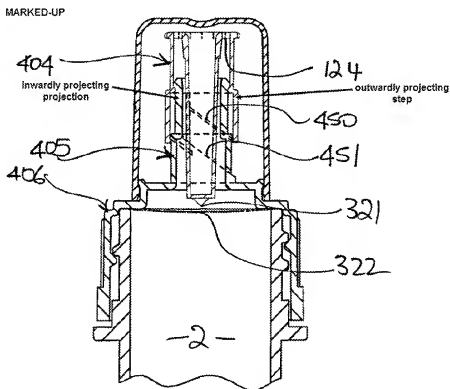


FIG 11.

Regarding claim 21, the mouth has a round outer edge forming an exterior substantially shaped like a torus (FIGS. 11 and 12).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coory in view of Gross et al. (6477743).

The plurality of guiding devices include at least one steep helical groove (450, 451) carried on the outer side of the end connector.

Coory DIFFERS in that it does not disclose cams as claimed. Attention, however, is directed to the Gross et al. reference, which discloses another closure comprising helical grooves (150) and cams (170) that constitute guiding devices.

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Coory reference in view of the teachings of the Gross et al. reference by employing cams because doing so would have been an equivalent substitution of one guiding device for another and one of ordinary skill in the art would have expected a guiding device including cams to perform equally well.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coory in view of Takahashi et al. (5573127).

The closure comprises a turning cover cap (4) including a toothing engaging a complimentary toothing rim (117) provided around a periphery of the mouth (pg. 8, lines 20-25).

Coory DIFFERS in that it does not disclose a turning cover cap in the mouth and connected through an integral hinge as claimed. Attention, however, is directed to the Takahashi et al. reference, which discloses another closure comprising a turning cover cap (6) in a mouth (4) and connected through an integral hinge (9).

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Coory reference in view of the teachings of the Takahashi et al. reference by employing a hinged cap in order to prevent the cap from being lost when removed for dispensing operations.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coory in view of Elliot (6045004).

Coory DIFFERS in that it does not disclose a mouth with a dome-shaped head having diametric incisions as claimed. Attention, however, is directed to the Elliot reference, which discloses another closure (FIGS. 5 and 6) having a dome-shaped head with diametric incisions (72) at a pouring opening.

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Coory reference in view of the teachings of the Elliot reference by employing a mouth having diametric incisions because as disclosed in column 2, lines 4-13 of the Elliot reference, a valved opening of this type allows for the container to be stored in an inverted position so that the fluid product is more readily dispensed, which is advantageous when dispensing viscous fluids.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coory in view of Perlmutter (5145094).

Coory DIFFERS in that it does not disclose a locking device as claimed.

Attention, however, is directed to the Perlmutter reference, which discloses another closure comprising a locking device (33, 37) for locking a mouth piece (26) in position.

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Coory reference in view of the teachings of the Perlmutter reference by employing a locking device to ensure the mouth does not inadvertently separate from the end connector when not in use in order to prevent spilling.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coory in view of Wood (5927549).

Coory DIFFERS in that it does not disclose a strip as claimed. Attention, however, is directed to the Wood reference, which discloses another closure comprising a strip (26) having a plurality of material bridges (50), placed as breaking points and able to be torn off, located at a bottom edge of a sleeve (52), the strip forming at one end a tongue (56) projecting outwardly with the strip preventing a pressing-down movement of a mouth on an end connector (24) for indicating an initial opening of a container or bottle having the closure (col. 6, lines 45-52).

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Coory reference in view of the teachings of the Wood reference by employing a tamper evident strip to provide a guarantee to the customer that the closure has not previously been opened.

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coory in view of Yurkewicz et al. (5975369) and further in view of Takahashi et al. (5573127).

The closure comprises a turning cover cap (4) including a tothing engaging a complimentary tothing rim (117) provided around a periphery of the mouth (pg. 8, lines 20-25). The mouth forms a head having a pouring opening (pg. 13, lines 3-5; FIG. 9).

Coory DIFFERS in that it does not disclose that the mouth has a dome-shaped head as claimed. Attention, however, is directed to the Yurkewicz et al. reference, which discloses another closure comprising a mouth (14) having a dome-shaped head (FIG. 2).

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Coory reference in view of the teachings of the Yurkewicz et al. reference by employing a dome-shaped head because a mouth piece shaped in such a way would conform better to the contours of a user's mouth and would therefore be more appealing to the user.

The modified Coory DIFFERS in that it does not disclose a turning cover cap as claimed. Attention, however, is directed to the Takahashi et al. reference, which discloses another closure comprising a turning cover cap (6) connected through an integral hinge (9).

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the modified Coory reference in view of the teachings of the Takahashi et al. reference by employing a hinged cap in order to prevent the cap from being lost when removed for dispensing operations.

11. Claims 23, 24, 27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coory (WO 01/36289) in view of Yurkewicz et al. (5975369) and further in view of Takahashi et al. (5573127).

Regarding claim 23, Coory discloses a closure (403) comprising:

an end connector (405, 406);

a threaded cap (406);

a pierce-cutter (404) forming a pierce point (321), a mouth with a pouring opening, and a sleeve surrounding the end connector (FIGS. 11 and 12); and

a turning cover cap (4) including a toothing engaging a complimentary toothing rim (117) provided around a periphery of the mouth (pg. 8, lines 20-25).

.Coory DIFFERS in that it does not disclose that the mouth has a dome-shaped head as claimed. Attention, however, is directed to the Yurkewicz et al. reference, which discloses another closure comprising a mouth (14) having a dome-shaped head (FIG. 2).

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Coory reference in view of the teachings of the Yurkewicz et al. reference by employing a dome-shaped head because a mouth piece shaped in such a way would conform better to the contours of a user's mouth and would therefore be more appealing to the user.

The modified Coory DIFFERS in that it does not disclose a turning cover cap as claimed. Attention, however, is directed to the Takahashi et al. reference, which

discloses another closure comprising a turning cover cap (6) connected through an integral hinge (9).

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the modified Coory reference in view of the teachings of the Takahashi et al. reference by employing a hinged cap in order to prevent the cap from being lost when removed for dispensing operations.

Regarding claim 24, the closure comprises a plurality of guiding devices (450, 451) between the outer side of the end connector and an inner side of the sleeve engaging one another to cause a helical rotation of the mouth (pg. 12, lines 28-30).

Regarding claim 27, the closure further comprises a projection (marked up FIG. 12 of Coory) projecting inwardly at an upper end of the connector and a continuous running step (125) on a lower region on an outer side of the pierce-cutter, sealing the mouth (pg. 10, lines 13-18).

Regarding claim 29, the pierce-cutter includes an outwardly projecting step (marked up FIG. 11 of Coory), the end connector includes an inwardly projecting projection and the mouth includes an outer rim being round in cross-section and projecting radially beyond the upper portion of the sleeve, so that when said mouth is pulled upwardly, the outwardly projecting step on said pierce-cutter encounters a stop (108) at the inwardly projecting projection on the end connector with the pierce point of the pierce-cutter being positioned above the bottom of the end connector.

12. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coory in view of Yurkewicz et al. and Takahashi et al., as applied to claim 24 above, and further in view of Gross et al. (6477743).

The plurality of guiding devices include at least one steep helical groove (450, 451) carried on the outer side of the end connector.

The modified Coory DIFFERS in that it does not disclose cams as claimed. Attention, however, is directed to the Gross et al. reference, which discloses another closure comprising helical grooves (150) and cams (170) that constitute guiding devices.

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the modified Coory reference in view of the teachings of the Gross et al. reference by employing cams because doing so would have been an equivalent substitution of one guiding device for another and one of ordinary skill in the art would have expected a guiding device including cams to perform equally well.

13. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coory in view of Yurkewicz et al. and Takahashi et al., as applied to claim 24 above, and further in view of Elliot (6045004).

The modified Coory DIFFERS in that it does not disclose a mouth having diametric incisions as claimed. Attention, however, is directed to the Elliot reference, which discloses another closure (FIGS. 5 and 6) including a mouth having diametric incisions (72) at a pouring opening.

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the modified Coory reference in view of the teachings of the Elliot reference by employing a mouth having diametric incisions because as disclosed in column 2, lines 4-13 of the Elliot reference, a valved opening of this type allows for the container to be stored in an inverted position so that the fluid product is more readily dispensed, which is advantageous when dispensing viscous fluids.

14. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coory in view of Yurkewicz et al. and Takahashi et al., as applied to claim 23 above, and further in view of Perlmutter (5145094).

The modified Coory DIFFERS in that it does not disclose a locking device as claimed. Attention, however, is directed to the Perlmutter reference, which discloses another closure comprising a locking device (33, 37) for locking a mouth piece (26) in position.

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the modified Coory reference in view of the teachings of the Perlmutter reference by employing a locking device to ensure the mouth does not inadvertently separate from the end connector when not in use in order to prevent spilling.

15. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coory in view of Yurkewicz et al. and Takahashi et al., as applied to claim 23 above, and further in view of Wood (5927549).

The modified Coory DIFFERS in that it does not disclose a strip as claimed. Attention, however, is directed to the Wood reference, which discloses another closure comprising a strip (26) having a plurality of material bridges (50), placed as breaking points and able to be torn off, located at a bottom edge of a sleeve (52), the strip forming at one end a tongue (56) projecting outwardly with the strip preventing a pressing-down movement of a mouth on an end connector (24) for indicating an initial opening of a container or bottle having the closure (col. 6, lines 45-52).

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the modified Coory reference in view of the teachings of the Wood reference by employing a tamper evident strip to provide a guarantee to the customer that the closure has not previously been opened.

Response to Arguments

16. Applicant's arguments with respect to claim 11 have been considered but are moot in view of the new grounds of rejection.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNELL LONG whose telephone number is (571) 270-5610. The examiner can normally be reached on M-F 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. L./
Examiner, Art Unit 3754

/Kevin P. Shaver/
Supervisory Patent Examiner, Art Unit 3754